

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT TACOMA

RICHARD ROY SCOTT,

Plaintiff,

v.

DAVID HACKETT, *et al.*,

Defendants.

Case No. C06-5612 FDB/KLS

REPORT AND
RECOMMENDATION

NOTED:
December 22, 2006

This civil rights action been referred to United States Magistrate Judge Karen L. Strombom pursuant to Title 28 U.S.C. §§ 636(b)(1) and Local MJR 3 and 4. The Court is advised by Plaintiff that he no longer wishes to pursue this action.

DISCUSSION

Plaintiff has filed a motion to voluntarily dismiss his action pursuant to Rule 41(a)(1) of the Federal Rules of Civil Procedure. (Dkt. # 7). Plaintiff's application for leave to proceed *in forma pauperis* and proposed civil rights complaint are presently pending approval in this Court. (Dkt. # 2). On November 17, 2006, Plaintiff filed a motion to stay this case because "[he] cannot get any copies," [from the Special Commitment Center.] (Dkt. # 6). On November 17, 2006, Plaintiff filed a motion to withdraw his Complaint "since I can not get any copies for serving this complaint, I am forced to with[draw] it, until I can." (Dkt. # 7).

1 Rule 41(a)(1) of the Federal Rules of Civil Procedure provides, in pertinent part:

2 [A]n action may be dismissed by the plaintiff without order of court (i) by
3 filing a notice of dismissal at any time before service by the adverse party of an
4 answer or of a motion for summary judgment, whichever first occurs

5 **CONCLUSION**

6 The Court should dismiss this action as Plaintiff has voluntarily requested dismissal. No
7 answer or motion for summary judgment has been filed by the Defendants. A proposed order
8 accompanies this Report and Recommendation.

9 Pursuant to 28 U.S.C. § 636(b)(1) and Rule 72(b) of the Federal Rules of Civil Procedure,
10 the parties shall have ten (10) days from service of this Report and Recommendation to file written
11 objections. *See also* Fed. R.Civ.P. 6. Failure to file objections will result in a waiver of those
12 objections for purposes of appeal. Thomas v. Arn, 474 U.S. 140 (1985). Accommodating the time
13 limit imposed by Rule 72(b), the Clerk is directed to set the matter for consideration on **December**
14 **22, 2006**, as noted in the caption.

15 DATED this 27th day of November, 2006.

16
17
18 

19 Karen L. Strombom
20 United States Magistrate Judge
21
22
23
24
25
26
27
28